



**RE: CWA Negligence Standard**

Aaron Farmer to: James Morgan, Michael Berman

08/07/2012 03:47 PM

Cc: "Elder@agri.ohio.gov", Julianne Socha, Kelly McCloud, "Kristina E. Tonn", "MRodgers@agri.ohio.gov"

From: Aaron Farmer <aaron.farmer@ohioattorneygeneral.gov>  
To: James Morgan/DC/USEPA/US@EPA, Michael Berman/R5/USEPA/US@EPA,  
Cc: "Elder@agri.ohio.gov" <Elder@agri.ohio.gov>, Julianne Socha/R5/USEPA/US@EPA, Kelly McCloud <kelly.mccloud@ohioattorneygeneral.gov>, "Kristina E. Tonn" <Kristina.Tonn@ohioattorneygeneral.gov>, "MRodgers@agri.ohio.gov"

Thank you, J.T. We'll keep you updated.

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From: James Morgan [mailto:Morgan.James@epamail.epa.gov]  
Sent: Tuesday, August 07, 2012 12:13 PM  
To: Michael Berman  
Cc: Aaron Farmer; Elder@agri.ohio.gov; Julianne Socha; Kelly McCloud; Kristina E. Tonn; MRodgers@agri.ohio.gov  
Subject: CWA Negligence Standard

Attached is a short discussion from the USDOJ environmental crimes manual regarding the negligence standard in the CWA. Also, below are the citations to the 3 circuit courts that have addressed the question of the CWA negligence standard. All three have found it is ordinary negligence.

United States v. Hanousek, 176 F.3d 1116 (9th Cir. 1999)

United States v. Ortiz, 427 F.3d 1278 (10 Cir. 2005)

United States v. Pruett, 681 F.3d 232 (5th Cir. 2012)

(See attached file: CWA Negligence Standard.pdf)

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